

Office of the Secretary, USDA

§ 12.13

same policy, the tenant or sharecropper will be ineligible for premium subsidy on that policy in lieu of a percentage reduction on that policy.

(2) The provisions of paragraph (b)(1) of this section will not apply unless all the following are met:

(i) The tenant or sharecropper shows that a good-faith effort was made to comply by developing an approved conservation plan for the highly erodible land in a timely manner and prior to any violation of the provisions of this part;

(ii) The owner of such farm refuses to apply such a plan and prevents the tenant or sharecropper from implementing certain practices that are a part of the approved conservation plan; and

(iii) FSA determines that the lack of compliance is not a part of a scheme or device as described in § 12.10.

(3) If relief is granted under paragraph (b)(1) of this section, the tenant or sharecropper must actively apply those conservation treatment measures that are determined to be within the control of the tenant or sharecropper.

[61 FR 47025, Sept. 6, 1996, as amended at 80 FR 22881, Apr. 24, 2015]

§ 12.10 Scheme or device.

All or any part of the benefits listed in § 12.4 otherwise due a person from USDA may be withheld or required to be refunded if the person adopts or participates in adopting any scheme or device designed to evade, or which has the effect of evading, the provisions of this part. Such acts shall include, but are not limited to, concealing from USDA any information having a bearing on the application of the provisions of this part or submitting false information to USDA or creating entities for the purpose of concealing the interest of a person in a farming operation or to otherwise avoid compliance with the provisions of this part. Such acts shall also include acquiescence in, approval of, or assistance to acts which have the effect of, or the purpose of, circumventing these regulations.

§ 12.11 Action based upon advice or action of USDA.

The provisions of part 718 of this Title, as amended, relating to performance based upon the action or advice of

a County Committee (COC) or State FSA Committee shall be applicable to the provisions of this part. In addition, if it is determined by the appropriate USDA agency that the action of a person which would form the basis of any ineligibility under this part was taken by such person in good-faith reliance on erroneous advice, information, or action of any other authorized representative of USDA, the appropriate agency may make such benefits available to the extent that similar relief would be allowed under 7 CFR part 718.

§ 12.12 Appeals.

Any person who has been or who would be denied program benefits in accordance with § 12.4 as the result of any determination made in accordance with the provisions of this part may obtain a review of such determination in accordance with the administrative appeals procedures of the agency which rendered such determination. Agency appeal procedures are contained in the Code of Federal Regulations as follows: FSA, part 780 of this title; NRCS, part 614 of this title; Rural Utilities Service, part 1900, subpart B of this title.

§ 12.13 Special Federal crop insurance premium subsidy provisions.

(a) *General.* The provisions and exemptions in this section are only applicable to Federal crop insurance premium subsidies for a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524). The exemptions in this section are in addition to any that apply under § 12.5. Any conflict between this section and another will be resolved by applying this section, but only for Federal crop insurance premium subsidies. Any exemptions or relief under this section apply to Federal crop insurance premium subsidies and do not apply to other benefits even for the same person for the same crop year or reinsurance year. Unless otherwise specified in this section, the provisions in this section apply to both highly erodible land and wetlands.

(b) *Ineligibility for failing to certify compliance.* Subject to paragraphs (b)(2) and (3) of this section, failing to certify compliance as specified in § 12.7 will result in ineligibility as follows: